ST/TAO/HR/50

SEMINAR
ON THE HUMAN RIGHTS OF MIGRANT WORKERS

TUNIS
12-24 November 1975

UNITED NATIONS

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ON THE HUMAN RIGHTS OF MIGRANT WORKERS

(organized by the United Nations Division of Human Rights in co-operation with the Government of Tunisia)

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INTRODUCTION

A. Organization of the seminar

1. At the invitation of the Government of Tunisia, the Secretary-General of the United Nations organized, under the programme of advisory services in the field of human rights established by the General Assembly in resolution 926 (X), a seminar on a world-wide basis on the human rights of migrant workers. This was the first United Nations seminar to be held on this topic.

2. The seminar was held at Tunis from 12 to 24 November 1975.

3. The arrangements regarding participation in the seminar and its agenda were agreed upon in consultation between the host Government and the Secretary-General of the United Nations.

B. Participation

4. Invitations to nominate participants were initially extended to the Governments of Afghanistan, Algeria, Argentina, Belgium, Brazil, Canada, China, Colombia, Czechoslovakia, Dahomey, Denmark, France, the German Democratic Republic, Germany (Federal Republic of), Guinea-Bissau, Iran, Lesotho, the Libyan Arab Republic, Mexico, the Philippines, Portugal, Romania, Sierra Leone, Singapore, Somalia, the Syrian Arab Republic, Trinidad and Tobago, Tunisia, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Zambia. Subsequently, after notification had been received from some countries that they would not be able to nominate a participant, invitations were extended also to the Governments of Kuwait, Japan, Jamaica, Pakistan, Malaysia and Yugoslavia.

5. Participants and alternates from the following countries attended the seminar in their individual capacity: Argentina, Belgium, Brazil, Canada, Czechoslovakia, Denmark, France, Germany (Federal Republic of), Guinea-Bissau, Iran, Kuwait, Lesotho, Libyan Arab Republic, Mexico, Pakistan, Philippines, Portugal, Romania, Somalia, Tunisia, Union of Soviet Socialist Republics, United Kingdom, United States of America, Venezuela.

6. Specialized agencies having an interest in the subject-matter of the seminar were invited to send representatives. Invitations were also addressed to the United Nations Institute for Training and Research, the United Nations Children's Fund and the Office of the United Nations High Commissioner for Refugees.

7. The following regional intergovernmental organizations were invited to send observers: Council of Europe, League of Arab States, Organization of African Unity, Organization of American States.

8. Non-governmental organizations in consultative status with the Economic and Social Council whose purpose and programmes are connected with the subject-matter of the seminar were also invited to send observers.

9. A list of those who attended the seminar may be found in the annex to this report.

C. Opening of the seminar and election of officers

10. The seminar was opened on behalf of the Secretary-General of the United Nations by Mr. Henri Mazaud, Chief, Studies and Conventions Section, Division of Human Rights, who made a statement. Mr. Abdelkrim Ghana, Director for Consular Affairs at the Ministry for Foreign Affairs, made an inaugural address and welcomed the participants on behalf of the Government of Tunisia.

11. The following officers were elected by acclamation:

Mr. Abdelkrim Ghana (Tunisia), Chairman

Mr. Nicholas Costy (Canada), Vice-Chairman

Mr. Vladimir Adamus (Czechoslovakia), Vice-Chairman

Mr. Arturo Muñoz Ledo (Mexico), Vice-Chairman

Mrs. Gloria Ramos (Philippines), Rapporteur

12. The Secretary-General was represented by Mr. Henri Mazaud, Chief, Studies and Conventions Section, Division of Human Rights, from 12 to 14 November and by Mr. Levan Alexidze, Chief, Advisory Services and Special Assignments Section, from 17 to 24 November. Mr. Emmanuel Mompoint was Secretary of the seminar.

D. Agenda

13. The agenda of the seminar was as follows:

A. Identification of main problem areas with respect to exercise of the rights and freedoms of migrant workers

(1) Protection of migrant workers at the recruitment stage

(2) The illicit traffic in foreign labour

(3) Questions relating to the employment of migrants, including those concerning: the prevention of discriminatory practices; access to vocational training; and protection in case of unemployment

(4) Implementation of the right to an adequate standard of living and to well-being, with respect, in particular, to the application of social security and family allowance norms and to problems relating to the housing of the worker and his family

(5) Reuniting of families

(6) Rights relating to education and culture: protection of the cultural identity of migrants; the worker's place in the society of the receiving country: adaptation, integration or assimilation

(7) The right not to be arbitrarily expelled in case of loss of employment

(8) Reintegration of returning migrant workers in their countries of origin

B. Consideration of procedures and methods of action aimed at ensuring that the rights of migrant workers are respected and their condition improved

(9) Appeals procedures: representations and complaints within the enterprise; appeals to administrative bodies; recourse to the law

(10) Collective action in favour of migrant workers

(a) Trade union rights

(i) Implementation of the right of migrant workers freely to join the trade unions of their choice, to participate in trade union activities and to benefit from the advantages obtained by trade unions

(ii) Role of trade unions with respect, in particular, to: improvement of the working conditions of migrants, by means of collective bargaining and other measures; and the assistance migrants may need in various fields

(b) Action on behalf of migrant workers enabling them to exercise the rights of expression, association and peaceful assembly outside the trade union framework, including, in particular: implementation of the right of migrants to form and belong to associations; action of political parties, churches and other religious institutions, youth associations and other voluntary associations

(c) Role of mass information media

(11) Measures taken on the initiative of the public authorities, including intergovernmental co-operation measures, with respect, for example, to controls at the time of recruitment and upon arrival, inspection of enterprises, assistance to migrants, and repressive action

C. International measures for the better promotion and protection of the rights and freedoms of migrant workers

At the domestic level: by means of bilateral, regional and interregional agreements; and at the world level, action by the United Nations, the ILO, UNESCO and other organizations. Critical evaluation of the results now being obtained under the relevant national and international instruments.

E. Documentation

14. The following background papers were prepared for the seminar at the request of the United Nations Secretariat:

Background paper BP/A by	Sir Geoffrey Wilson, KCB, CMG, Chairman of the Race Relations Board, London, England
Background paper BP/B by	H.E. Luis Valencia Rodríguez, Ambassador of Ecuador to Peru, and member of the Committee on the Elimination of Racial Discrimination
Background paper BP/C by	Mr. Abdelwahab Bouhdiba, Professor at the University of Tunis

15. The following working papers were prepared by participants:

WP/1	Finn Nielsen (Denmark)
WP/2	Dolores Battle (United States of America)
WP/3	Vladimir Adamus (Czechoslovakia)
WP/4	Juan Manuel Villar, submitted by Hector Ciapuscio (Argentina)
WP/5	Z. M. Sello (Lesotho)
WP/6	Iradj Seyed-Zare (Iran)
WP/7	Kurt Händler (Germany, Federal Republic)
WP/8	Henry Humphrays (United Kingdom)
WP/9	Gloria Ramos (Philippines)
WP/10	Arturo Muñoz Ledo (Mexico)
WP/11	Pericles de F. M. Carvalho (Brazil)

16. In addition, a short introductory note on ILO activities concerning items on the agenda was submitted by the International Labour Organisation.

17. The seminar also had before it: (a) the study on the exploitation of labour through illicit trafficking prepared by Mrs. Halima Embarek Warzazi, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities for this study (E/CN.4/Sub.2/L.629); (b) the introductory statement (E/CN.4/Sub.2/352) to the first report on the study, made by Mrs. Warzazi at the 700th meeting of the Sub-Commission at its twenty-seventh session, on 13 August 1974, and (c) the draft recommendations submitted by the Special Rapporteur (E/CN.4/Sub.2/L.636) to the Sub-Commission at its twenty-eighth session.

I. IDENTIFICATION OF MAIN PROBLEM AREAS WITH RESPECT TO EXERCISE OF THE RIGHTS AND FREEDOMS OF MIGRANT WORKERS

18. This item was discussed at the 3rd to 7th meetings, held from 13 to 17 November 1975, and at the 12th meeting, held on 19 November 1975. The seminar decided to group and to discuss jointly subitems 1 and 2; subitems 3 to 6; subitems 7 and 8.

19. The item, as a whole was introduced by Mr. Finn Nielsen (Denmark). In his introduction, Mr. Nielsen suggested that after the problem of migration had been placed in perspective, each subitem could be treated by examining: (i) what aspects of the problem had arisen in participants' countries or regions or in their experience; (ii) what solutions and measures of implementation had been utilized in their countries or regions or in their experience; (iii) what practical solutions and feasible measures of implementation participants could recommend; furthermore, bearing in mind what was already being done at the national, regional or international level, what further measures could be suggested to implement the human rights of migrant workers.

A. General comments

20. The view was expressed that it was necessary to have a clear idea of the definition of a migrant worker when discussing his human rights. Reference was made to the way in which the term was used in Convention No. 143 and Recommendation No. 151 of the International Labour Organisation. Another view was that, however defined, migrant workers were human beings whose rights should be protected. Some participants stated that there was a human right to emigrate.

21. Many participants expressed the view that the seminar should search for, and bring forward, new and enriching ideas on how to implement the human rights of migrant workers. It was stated that migration, in addition to being a reflexion of unemployment or underemployment in sending countries, was also a reflexion of inequitable distribution of income within those countries.

22. Reference was made to current efforts within the United Nations to create a "New International Economic Order" and thereby to eliminate the causes of underdevelopment which made migration a necessity for so many people. The view was expressed that international policy should be based on capital being moved to labour instead of labour to capital. In the opinion of one participant, migration was a means of raising the living standards of the world. Too rigid attitudes to migration policies should, therefore, not be adopted.

23. During the discussions, reference was made to the historic significance and importance of the Final Act of the Conference on Security and Co-operation in Europe, concluded at Helsinki on 1 August 1975, in which the participating States determined inter alia:

"that the problems arising bilaterally from the migration of workers in Europe as well as between the participating States should be dealt with by the parties directly concerned, in order to resolve these problems in their mutual interest, in the light of the concern of each State involved to take due account of the requirements resulting from its socio-economic situation, having regard to the obligation of each State to comply with the bilateral and multilateral agreements to which it is party, and with the following aims in view:

"to encourage the efforts of the countries of origin directed towards increasing the possibilities of employment for their nationals in their own territories, in particular by developing economic co-operation appropriate for this purpose and suitable for the host countries and the countries of origin concerned;

"to ensure, through collaboration between the host country and the country of origin, the conditions under which the orderly movement of workers might take place, while at the same time protecting their personal and social welfare and, if appropriate, to organize the recruitment of migrant workers and the provision of elementary language and vocational training;

"to ensure equality of rights between migrant workers and nationals of the host countries with regard to conditions of employment and work and to social security, and to endeavour to ensure that migrant workers may enjoy satisfactory living conditions, especially housing conditions;

"to endeavour to ensure, as far as possible, that migrant workers may enjoy the same opportunities as nationals of the host countries of finding other suitable employment in the event of unemployment;

"to regard with favour the provision of vocational training to migrant workers and, as far as possible, free instruction in the language of the host country, in the framework of their employment;

"to confirm the right of migrant workers to receive, as far as possible, regular information in their own language, covering both their country of origin and the host country;

"to ensure that the children of migrant workers established in the host country have access to the education usually given there, under the same conditions as the children of that country and, furthermore, to permit them to receive supplementary education in their own language, national culture, history and geography;

"to bear in mind that migrant workers, particularly those who have acquired qualifications, can by returning to their countries after a certain period of time help to remedy any deficiency of skilled labour in their country of origin;

"to facilitate, as far as possible, the reuniting of migrant workers with their families;

"to regard with favour the efforts of the countries of origin to attract the savings of migrant workers, with a view to increasing, within the framework of their economic development, appropriate opportunities for employment, thereby facilitating the reintegration of these workers on their return home."

24. The fact was stressed that the problems of migrant workers had been considered at the Helsinki Conference by government representatives at the highest level. Through adoption of the provisions of the Final Act, it was stated, the participants in the Conference had made an important contribution to the examination of the problems to which the seminar was devoted. It was pointed out that the results achieved by the Conference with respect to the problems of migrant workers could serve as an example for the peoples of other continents.

25. One participant expressed concern at the fate of the millions of migrant workers who had lost their jobs or who were in danger of losing their work as a result of the economic crisis in the developed capitalist countries. It was pointed out that some receiving countries remained indifferent to the fact that, when thrown out of work, migrant workers had lost the sole source of livelihood for themselves and their families. In this connexion, it was mentioned that migrant workers had made an extremely important contribution to the economies of the receiving countries. It was stated that the entrepreneurs in the receiving countries had specific responsibilities towards unemployed migrant workers.

26. The view was expressed that in the future, much more importance would have to be attached to problems connected with the working and living conditions of millions of men who were forced to leave their family and country in search of work. The problem of migrant workers should be analysed in the light of the historical, national, economic and social conditions of the countries of origin and the receiving countries. A fundamental aspect of the question was that the problem of migrant workers constituted an integral part of the population problem. It was recalled that the World Population Conference (Bucharest, 19-30 August 1974) had carried out a detailed examination of the implications of international migrations and had emphasized that countries which were concerned at the outflow of migrant workers and wished to encourage and help them to remain in, or return to, their own country should make special efforts to create favourable employment opportunities at home.1/ In resolution V, entitled "For a more just world", the Conference declared that the improvement of living conditions and, by and large, the solution of population problems entailed respect for the inalienable right of each country to be the master of its own national resources, its raw materials and other natural resources. It further declared that a decisive role in the process of development should be played by the people's own efforts to implement

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1/ Report of the United Nations World Population Conference, 1974 (United Nations publication, Sales No. E.75.XIII.3), para. 54.

industrialization and development programmes so as to turn fully to account the material and human potential at their disposal in the interest of their progress and well-being. The Conference also stated that an important factor in solving population questions was the expansion of international co-operation within the framework of a new economic order, and the establishment of just relationships, which should eliminate all manifestations of inequity and discriminatory practices - co-operation which should lessen discrepancies and close gaps, thus ensuring the active and advantageous participation of every country in the international division of labour.2/

27. The representative of the ILO informed the seminar of that agency's consideration of the problems relating to the human rights of migrant workers. He said that the approaches followed by the ILO in dealing with those problems were, on the one hand, to protect migrant workers and their families and, on the other hand, to place problems of migrant workers within the framework of a coherent policy on international migration for employment. This last aspect was to be particularly considered by the World Tripartite Conference on Employment to be organized by the ILO in 1976. He also referred to relevant ILO instruments, particularly Convention No. 143 and Recommendation No. 151 adopted by the International Labour Conference in 1975 and expressed the hope that the seminar would contribute to these and other international instruments affecting migrant workers being better known and effectively applied.

B. Protection of migrant workers at the recruitment stage

28. At the stage of recruitment, it was said that receiving countries as well as sending countries had responsibilities towards migrant workers. For host countries that recruited a large number of migrant workers, those responsibilities included training and orientation at the pre-departure stage, consideration of family unity at the pre-departure stage, ensuring that organized efforts, particularly at the governmental level, were made to supervise and regulate migration flows, which should be encouraged only under properly supervised conditions. The migrant worker should be informed prior to departure, in the greatest possible detail and with the utmost precision, of conditions prevailing in the prospective country of employment and of the nature and extent of his rights and his obligations when he arrived there. A minimum amount of training should also be given to the prospective migrant worker in the language, the culture and the legal, social and political structures of the receiving countries.

29. Reference was made by some participants to the situation existing in their respective countries. It was stated that some governments had taken measures to prepare and assist prospective migrants and that the authorities had organized preparatory courses in many countries from which they received migrants. In one country, model employment contracts had been prepared to be used by their nationals going abroad for employment. In another country workers usually arrived only on the basis of bilateral agreements. Before arriving the worker was

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2/ Ibid., chap. II, resolution V.

informed exactly what work he would do, where he would work, where he would be housed, and various other pertinent details. It was urged that bilateral agreements should provide the basis for the movement of migrant workers between one country and another. If there was no bilateral agreement, the employment contract should be concluded under the aegis of a state body to ensure uniformity with national laws and to ensure compliance with the contracts.

30. It was suggested that bilateral agreements should also be concluded regarding guest worker and contract worker schemes. In the experience of some countries these were most effective.

31. The view was expressed that the protection of the migrant worker should consist in his being informed of wages and working conditions and, if possible, of general living conditions in the receiving country before he left his native country.

32. As regards the question of exploitation by private agents in the establishment of contact between the employer and the migrant worker, it was stated that it would be an advantage if contact was established through the medium of the employment services of the native country. It would nevertheless be difficult to exclude the possibility of making contact through, for instance, migrant workers who were employed in the receiving country. The receiving countries and the countries of origin should co-operate in controlling the activities of private agents.

C. The illicit traffic in foreign labour

33. On the question of the illicit traffic in foreign labour, it was emphasized by several participants that the worker should be protected whether he is "legal" or "illegal". A view was expressed that it was necessary to separate three different situations in which the non-documented worker may be involved: as violator of immigration regulations, as worker, and as a human being. Each one had its own legal consequences which should not be mixed up to the detriment of the workers' rights. From the standpoint of employment and labour relations there was no such thing as an "illegal worker"; all workers had a legal status as regards labour regulations; all employers were committed to respect labour legislation and to fulfil their obligations; all workers had the right to claim their human and labour rights. From the point of view of migration regulations, migrant workers not fulfilling the requirements provided for their staying in a country as residents should be considered in an irregular condition or not properly documented. All workers, regardless of their migratory status, should be protected by human rights provisions, national labour legislation and relevant international instruments. A participant pointed out that under the law of one country the offence of illicit labour traffic was severely punished - by 2-10 years' imprisonment and a heavy fine. In that connexion it was observed that if that rule was incorporated into national legislations and universally recognized, countries would have at their disposal procedures which would serve to reinforce ILO conventions on that subject. The same participant said also that in some countries, in cases of illicit traffic, workers, and not their employers, were punished, and that was unjust.

34. It was urged that even more than the lawful migrant, the unlawful migrant faced serious problems of disrespect for his human rights. He was a natural target of exploitation because of his lack of status. He was at the mercy of his employers and was forced to accept any kind of employment, working and living conditions. He could not seek recourse for fear of exposing his illegal status. His plight was an urgent one. To give an example of the scales involved, it was estimated that in one country alone there were between 8 and 12 million illegal migrant workers.

35. Problems encountered by illegal migrant workers were mentioned. For example, recruitment procedures were often circumvented by unscrupulous employers and private agents who were able to lure migrant workers without giving them the benefits or safeguards to which they would be entitled had they been recruited through official channels. It was stated that the phenomenon of short-term contracts accentuated among migrant workers their feeling of being a minority. Short-term contracts also lead to insecurity and to an unwillingness on the part of the migrant worker to enforce his rights for fear of his contract not being renewed.

36. It was stated that foreign workers not in possession of required documents should not be treated in a degrading manner but should be assisted to obtain the necessary papers.

37. It was pointed out that decisions affecting illegal migrant workers were often made by administrative authorities against which there was no recourse of appeal. It was stressed that upon discovery the illegal migrant worker should have recourse to a tribunal which could consider the various aspects of his case; his personal circumstances, his family, the length of his stay in the host country, the way in which he performed his work, his relations with fellow employees and neighbours. All those factors should be taken into account before a final decision was made to expel a migrant worker.

38. It was generally agreed that measures should be taken in order to implement the human rights of unlawful migrant workers. In this connexion attention was drawn to resolution 3224 (XXIX) of the United Nations General Assembly in which the Assembly invited all States, in so far as more detailed criteria necessary for formulating explicit recommendations did not yet exist: (a) to extend to all migrant workers who entered their countries legally treatment equal to that provided for their own nationals with regard to human rights and to the provisions of their labour legislation applicable to such migrant workers; (b) to promote and facilitate by all means in their power the adoption of bilateral agreements which would help to reduce the illicit traffic in alien workers; (c) pending the conclusion of such agreements, to adopt appropriate measures to ensure that the human rights of migrant workers who entered their territory surreptitiously were fully respected.

39. Stiffer penalties for offending employers were among the measures suggested. One participant stated that in his country, in the consideration of applications by employers to employ foreign workers, consideration was given as to whether the employer usually respected relevant labour laws, and that employers of persons not

in possession of the necessary papers were subjected to serious penalties which were increased in case of repeated offences. Employers were also subjected to penalties for false pretences used in obtaining papers for foreign workers.

40. The view was expressed that when an illegal migrant worker was discovered, normal labour laws should continue to apply so as to ensure that while his status was being considered or regularized he did not lose any benefits to which he might be entitled.

41. It was also urged that there should be no relationship between deportation and the level of unemployment in receiving countries. A decision to deport should never be based upon such an inhuman criterion.

42. Reference was made to a country in which, in order to protect illegal migrant workers, an opportunity had been given to them to come forward and regularize their status; 80,000 such persons had taken advantage of that measure. It was stressed that the experience could be applied elsewhere. Rather than keeping a permanent force of illegal persons subjected to inhuman and degrading treatment for years on end, considerations of humanity should prevail.

43. It was stated that in another country the idea of regularization had been considered, but most of the proposals made related to persons who had legally entered the country. It was argued that one drawback of regularization was that it could encourage subsequent illegal migration. It was pleaded, however, that this should not be an overriding consideration, otherwise it could lead to whole families spending their life-time in an illegal status. Considerations of humanity and of human rights should predominate in such circumstances.

D. Questions relating to the employment of migrants, including those concerning: the prevention of discriminatory practices; access to vocational training; and protection in case of unemployment

44. In the view of many participants, migrant workers were the victims of discriminatory practices in the field of employment on a large scale. Referring to various reports issued by the ILO on the subject, they mentioned, in particular, the exclusions or preferences with regard to the types of post which migrants could occupy; the lack of opportunities for benefiting from vocational training programmes; the different standards applied to migrant workers as far as the possibility of keeping jobs is concerned; the practices regarding the type of contracts accorded to migrant workers that deprive them of certain advantages; the legal and administrative measures that forced migrant workers to remain in certain occupations or deprived them of the possibility of working elsewhere than in specific regions; the inequality of pay for identical jobs; the difference in grading in situations where duties and training were identical; and the practices that excluded migrant workers from the scope of regulations concerning working conditions or affected their participation in labour relations and in the activities of trade unions. Special emphasis was also placed on the way in which such workers were looked upon in the countries of employment, the most important point being that

in some countries they were regarded mainly as a complementary labour force, recruited to perform the most arduous tasks which, in the majority of cases, held the least attraction for national workers.

45. It was repeatedly observed that discriminatory practices, such as those described above, continued to be applied in spite of the fact that a number of international instruments in force, including the Convention on the Elimination of All Forms of Racial Discrimination, and the legislation of many of the countries concerned contained provisions against discrimination to the effect that all persons inhabiting the territory of the State had equal rights and obligations in the matter of employment. Reference was also made to article 10 of the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which provides that each State undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

46. Similarly, the Migrant Workers Recommendation, 1975 (No. 151) of the ILO provides that each State should ensure the application of the principles concerning equality of opportunities and treatment in all activities under the control of a public authority. These principles include: access to vocational guidance and placement services; access to vocational training and employment of their own choice on the basis of individual suitability for such training and employment, account being taken of qualifications acquired outside the territory of and in the country of employment; advancement in accordance with their individual character, experience, ability and diligence; security of employment, the provision of alternative employment, relief work and retraining; equal remuneration for work of equal value; conditions of work, including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connexion with employment. With regard to the ILO instruments mentioned above, however, a view largely held was that their scope should be enlarged in order to protect all migrant workers, including those who are non-documented or irregular.

47. Many participants therefore emphasized that preventive and remedial action was urgently needed. In this connexion, it was pointed out that migratory movements were generated not only by the desires of countries which supplied manpower but also by those of the receiving countries.

48. It was generally agreed that the vocational training of migrant workers was an essential prerequisite to the betterment of their living conditions and to their adaptability to new surroundings. Without vocational training, it was said, migrant workers would remain condemned to perform the most menial and the most arduous work. While it was noted that some countries had adequate vocational training institutes for migrant workers, it was nevertheless observed that, in most instances, the situation was far from satisfactory. Many participants stressed that very few migrant workers received vocational training outside their place of

work during the period of their employment. It was further stated that in certain countries, the existence of laws on vocational training restricted training possibilities for migrant workers, as such laws often contained conditions relating to residence that many migrant workers could not meet.

E. Implementation of the right to an adequate standard of living and to well-being, in respect, in particular, to the application of social security and family allowance norms and to problems relating to housing of the worker and his family

49. It was recognized that the living conditions of migrant workers were in many cases unsatisfactory. As regards social services benefits, the efforts being made by certain countries were emphasized but, at the same time, it was pointed out that in most cases migrant workers were at a disadvantage in comparison with national workers. Social security standards did not always seem to be in keeping with the concepts of equity and justice. It was further stated that, as the migrant worker was required to contribute to various social security schemes, he should be entitled in case of undermployment to benefits equal to those accorded to nationals.

50. Several participants said that migrant workers faced serious difficulties in many countries when trying to obtain adequate housing. Citing ILO reports on the question, they contended that the plight of migrant workers could be attributed to a variety of causes, among them: high rents; low incomes; a scarcity of housing in areas where migrant workers are concentrated; the large size of migrant families; limited access to public housing; and prejudice among the local population. On the other hand, the efforts undertaken in some countries to remedy the situation were stressed. For example, it was noted that in certain countries the law made it compulsory for employers to provide housing for migrant workers who were recruited through official procedures.

51. The hope was expressed that the provisions of the relevant international and bilateral instruments would be strictly complied with and that all migrant workers would benefit from them. Particular reference was made in this connexion to various ILO conventions and recommendations which had been adopted with a view to solving the housing problems of migrant workers. Article 6 of the Migration for Employment Convention (Revised), 1949, provides that each State for which the Convention is in force shall undertake to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory treatment no less favourable than that which it applies to its own nationals in respect of accommodation. Paragraph 10 of the Migration for Employment Recommendation (Revised), 1949, seeks to ensure that migrants for employment are provided in case of necessity with adequate accommodation on arrival in the country of immigration. The Workers' Housing Recommendation, 1961, provides that the competent authorities should give special attention to the particular problem of housing migrant workers and, where appropriate, their families, with a view to achieving as rapidly as possible equality of treatment between migrant workers and national workers in this respect. A similar provision is embodied in the Protection of Migrant Workers (Underdeveloped

Countries) Recommendation, 1955. It was also noted that a number of bilateral agreements contained provisions relating to housing for migrant workers. Some of them stipulate that any offer of employment made by recruitment agencies should contain information about accommodation. Others specify that the housing provided for migrant workers should conform to the construction and size standards laid down in those agreements.

52. As to social services benefits, the ILO Migrant Workers Convention and Recommendation, 1975, provide that migrants and the members of their families lawfully within the territory of the country concerned shall have access to social services under the same conditions as nationals of that country. Such services should include social security services, in accordance with the relevant national standards in force.

F. Reuniting of families

53. According to a large number of participants, the question of the reuniting of families, which was considered by some speakers as constituting a basic factor of well-being for the migrant worker, was one of the most acute problems that he had to face. It was observed that a very large proportion of migrant workers were living in isolation, without their family. That in turn created social and psychological problems detrimental to the establishment of harmonious relations between migrant workers and the community. Attention was also drawn to the adverse consequences for the worker of prolonged separation from his family. While it was recognized that, in many cases, migrant workers themselves showed reluctance to have their families accompany them, it was generally felt that States should do their utmost to facilitate the uniting of families and refrain from imposing restrictions on the entry of members of the worker's family. Any policy which systematically opposed the entry of workers with their families should be resolutely condemned.

54. In this connexion, reference was made to the relevant provisions of certain ILO instruments dealing with the question. Thus, article 13 of the Migrant Workers (Supplementary Provisions) Convention, 1975, provides that any State should take all necessary measures which fall within its competance to facilitate the reunification of the families of all migrant workers legally residing in its territory. For these purposes, the family comprises the worker's spouse and dependent children, father and mother. The Migrant Workers Recommendation, 1975, contains broader provisions on this subject. Worth noting are paragraphs 17 and 18, which facilitate visits by the migrant worker to his family resident in the country of origin and even provide for the possibility of giving him financial assistance for this purpose. It was also stated that some bilateral agreements established guidelines or general principles for the admission of families, whereas others were more specific, stipulating the number of members of the family permitted to enter and providing that the members of the family should be entitled to free travel.

G. Rights relating to education and culture: protection of the cultural identity of migrants; the worker's place in the society of the receiving country: adaptation, integration or assimilation

55. Speakers unanimously agreed that migrant workers and members of their families should benefit from the same rights to education and culture as those enjoyed by national workers. It was, however, generally recognized that that principle had not been fully realized in practice. It was said that the admission of a large number of children of migrants aggravated the shortage of space and of teachers and was a problem confronted by many receiving countries. There were also complex psychological aspects of the situation; for example, the children had to adapt themselves to new customs. Furthermore, the fact that the children must study in a new language had a negative impact on their performance level and that, in turn, had the effect of lowering the over-all standard of mixed classes. Finally - a factor not to be underestimated - the local population was in many instances reluctant to admit children of migrants into their schools, on the pretext that the educational standards of the schools would decline.

56. In the view of several speakers, the achievement of genuine equality for children of migrant workers in the field of education required the adoption of a series of measures corresponding to the special handicaps and needs of migrant children.

57. Some participants drew attention to various measures taken in their respective countries in order to overcome those problems. One such measure was the establishment of special classes in the language of the receiving country before the pupils were incorporated into the normal classes. Another measure was the sending of special teachers by the countries of emigration to work in collaboration with the teachers of the receiving countries. Reference was also made to a resolution adopted by the General Conference of UNESCO in 1972 in which the Conference invited member States to take concrete measures to facilitate equality of access to education and of educational opportunities for foreign migrant workers and their children, and to improve this education.

58. With respect to cultural rights, many participants stressed that the fundamental aim of policy in this area should be to preserve at all costs the migrant worker's own cultural identity. While it was generally agreed that all efforts should be undertaken to achieve the smooth integration of migrant workers into the social environment of receiving countries, it was emphasized by many participants that assimilation should never be attempted. They therefore insisted that children of migrant workers should be given the opportunity of learning their own language and of receiving instruction in their culture. It was argued that whenever circumstances so warranted, cultural centres and facilities should be established to enable migrant workers and the members of their families to continue to use their own language in their communities. Some of the participants, however, pointed out that the case of immigrants who left their country of origin permanently fell into a different category. Integration, it was contended, was the only way of avoiding conflicts between migrants and the local population.

59. Reference was made to a number of provisions of ILO instruments that dealt with this question. Article 12 of the Migrant Workers Convention, 1975, provides that every ratifying State shall "take measures to encourage educational programmes and develop other activities aimed at acquainting migrant workers as fully as possible with the policy [provided for in article 10 of the Convention], with their rights and obligations, and with activities designed to give effective assistance to migrant workers in the exercise of their rights and for their protection". The Migrant Workers Recommendation, 1975, provides that such measures as may be necessary should be taken generally, to promote their adaptation to the society of the country of employment and to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue. It was further stated that some bilateral agreements contained regulations concerning the admission of the children of migrants into the schools of the receiving country. Speakers insisted on the need for ensuring respect of such bilateral agreements.

H. The right not to be arbitrarily expelled in case of loss of employment

60. It was stressed that the possibility of expulsion on loosely defined grounds and without adequate guarantees had created among migrant workers feelings of uncertainty as to their legal position and security of residence. It was emphasized that all migrant workers should be entitled to appeal against an expulsion order. Although a number of receiving countries had taken certain administrative measures with regard to this problem, there was still much to be done in order to fully protect and guarantee the human rights of migrant workers.

61. A number of participants made reference to various measures taken by their respective governments aimed at reducing the possibility of expulsion of migrant workers. It was suggested that careful selection at the recruitment stage could lead to fewer expulsions. The conclusion of employment contracts could also lead to a reduction of expulsions.

62. It was pointed out that refusal to renew employment contracts should not be used as a pretext for expulsion.

63. Some participants said that economic depression in host countries was often used as a pretext for expulsion. This practice was condemned.

64. A participant remarked, in addition, that the authorities should not carry out arrests, arbitrary detentions or round-ups at public places such as restaurants or cinemas, on the sole basis of physical and morphological features which were peculiar to a specific ethnic group. Likewise, arbitrary arrests and expulsions of any kind, such as those to which workers whose papers were not in order were subjected, should be prohibited. In particular, expulsions represented as "voluntary departures" should be prohibited. The view was expressed that, often, migrant workers were expelled from certain countries as a result of prejudice and a discriminatory policy. That was the cause of many violations of the rights of migrant workers, and in some cases, the result was a deterioration in relations

between the country of origin and the host country. In order to prevent further deterioration of those relations and forestall fresh violations of the fundamental rights of migrant workers, it was suggested that the United Nations should intensify its efforts in that respect.

65. It was suggested that in order to prevent arbitrary expulsion legislation should be enacted to provide safeguards and to establish appropriate appeal services.

66. Attention was drawn to article 13 of the International Covenant on Civil and Political Rights, which states that aliens lawfully in the territory of a State party can be expelled only in pursuance of a decision reached in accordance with law, and must be allowed, except where reasons of security otherwise require, to submit reasons against their expulsion and to have the case reviewed by a competent authority. Attention was also drawn to paragraph 33 of ILO Recommendation 151, which states that a migrant worker who is the object of an expulsion order should have a right of appeal before an administrative or judicial body, according to conditions laid down in national laws or regulations. The appeal should stay the execution of the expulsion order, subject only to the substantiated requirements of national security or public order. The migrant worker should have the same right to legal assistance as national workers and have the possibility of being assisted by an interpreter.

67. A number of principles were put forward for guidance in cases of expulsion. It was stated that there should be equity in the expulsion procedure. It was also observed that expulsion should not be related to loss of employment. There should never be mass expulsion. Some participants further maintained that agitation within receiving countries for mass expulsion or mass returns should not be permitted. Reference was made to one country in which repeated referenda had been held to decide whether foreign workers should be sent back en masse to their countries of origin. Such a procedure, it was stressed, was very inhuman.

I. Reintegration of returning migrant workers in their countries of origin

68. During the discussion the principle was repeatedly stated that migrant workers should always enjoy the right and the opportunity to return to their countries of origin should they wish to do so. Migrant workers, it was pointed out, continued to retain strong feelings for their country of origin, even if they had been integrated in the receiving country.

69. There was general consensus that the question should be approached through co-operation between the country of origin and the receiving country. Both countries should agree on certain methods or machinery that would guarantee that returning migrant workers would find decent employment in their countries of origin. It was suggested that a guidance service should be set up which could provide migrant workers who wished to return to their country of origin with all the necessary information about the conditions of employment and life in general in their country of origin.

70. It was stated that it was the duty of the country of origin to provide decent employment for its returning nationals. The returning migrant workers should be given the opportunity in their country of origin to use the skills they had acquired during their stay abroad. In this connexion, it was suggested that the return of migrants could be considered as a form of technical assistance based on a bilateral agreement between the country of origin and the receiving country. While the freedom of choice of the migrant workers should be respected, migrant workers themselves should honour the provisions of such bilateral agreements. Reference was made in this regard to a bilateral agreement between the Federal Republic of Germany and Turkey. It was recommended that this type of agreement could serve as a model.

71. It was observed that in one country a special organization had been set up to deal with the return of migrant workers. Reference was also made to a recent meeting of experts held under the auspices of the ILO in the course of which the question of the return of migrant workers had been discussed. One conclusion of that meeting was that the problems of the return of migrant workers should be viewed within the over-all framework of migration policy. Another conclusion was that the problems of return differed according to the geographical region or subregion involved. The meeting had also concluded that return should always be voluntary and never imposed. It should not even be promoted, for example, by the payment of departure indemnities or the organization of return trips. Acquired rights, or rights in the course of acquisition, should be safeguarded when the migrant worker returned to his country of origin. The view was expressed that rights should be attributed on the basis of "personality", rather than on the basis of "territoriality" so that a migrant worker might enjoy benefits even if he left the host country and returned to his country of origin or went to a third country.

72. It was pointed out that returning migrants should be allowed to transfer their savings when they returned home.

73. Reference was made to the experience of one country in which workers on their annual leave were encouraged to visit their home countries so that they could continue to retain their links. In that country return trips to the home country were periodically paid for by employers.

J. Summing up of the discussion

74. Mr. Finn Nielsen (Denmark), who had introduced the item, said, in summing up, that it emerged from the discussions that:

(a) Recruitment should, as far as possible, be done through official channels, and emphasis should be placed more and more on the concept of "selected" migrant workers;

(b) In order to regulate migration, to afford protection to migrant workers and to eliminate clandestine trafficking in labour, bilateral agreements should be the basis of international migration;

(c) The fullest possible information should be given to migrant workers prior to their departure and initiation courses should also be organized for them;

(d) Most of the human rights contained in international instruments, such as the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination are applicable to, and may be invoked by, migrant workers;

(e) Everything should be done by participants to ensure that their respective governments ratify those instruments, so that their provisions could be enjoyed by all persons, including migrant workers; the same observation could be made in relation to the relevant ILO instruments;

(f) Discrimination against migrant workers in the form of geographical and occupational restrictions should be further studied;

(g) Migrant workers should be treated in a decent manner as regards their standard of living and well-being, the application of social security, provision of housing, opportunities for educational and cultural development, etc.;

(h) As far as possible, the migrant worker should be accepted together with his family and everything should be done to foster family unity;

(i) The view had been expressed that migrant workers had a right not to be arbitrarily expelled from the receiving countries;

(j) The voluntary return of migrant workers to their countries of origin could be used as a form of technical assistance; they could, whilst employed in receiving countries, be trained in areas of use to their home countries.

II. CONSIDERATION OF PROCEDURES AND METHODS OF ACTION AIMED AT ENSURING THAT THE RIGHTS OF MIGRANT WORKERS ARE RESPECTED AND THEIR CONDITION IMPROVED

75. This item of the agenda was discussed at the 7th to 12th meetings, held from 17 to 19 November 1975.

76. The item as a whole was introduced by Mr. Henry Humphrays (United Kingdom). In his introduction he said that, having considered, under item A of the agenda, the human rights to which migrant workers were entitled, the seminar should proceed to discuss ways to ensure respect for those rights in order to provide better conditions for migrants. He drew particular attention to the significance of appeal procedures and invited the seminar to consider the extent to which they should be made available to the migrant worker, and in what form.

A. Appeal procedures: representations and complaints within the enterprise; appeals to administrative bodies; recourse to the law

77. Many participants noted that in many countries adequate appeal procedures were not available or not easily accessible to migrant workers. The point was made that the migrant worker, being a stranger to the society, often very vulnerable, particularly needed the protection of the courts. There were, it was said, issues of principle involved in giving the right of appeal to migrant workers. Decisions affecting the lives of people should always be open to review and should never be left to the judgment of a single body. The principle of granting the right of appeal should never be suppressed, even though difficulties might arise through abuse or cost.

78. The view was expressed that a distinction should be made between the migrant worker as a worker and as an alien. All the recourses available to indigenous workers should be open to him in his capacity as a worker. He should have access to the courts for the redress of grievances arising in connexion with his employment. In his capacity as an alien he should have access to the courts of first instance, as well as to the courts of appeal, in all matters affecting his residence or status in the country.

79. There was some support for the view that illegal workers should not be given the right of appeal, since that right was sometimes used to circumvent normal immigration procedures. It was said that, as the illegal immigrant did not go through the regular procedures, he would use the recourse of appeal to try to stay in the country. This was regarded as unfair to those persons who had taken the various steps and waited their turn through the regular procedures. Moreover, complications sometimes occurred while the appeal was pending (for instance, when the migrant worker married a local inhabitant or acquired property).

80. It was, however, emphasized that under article 6 of the Universal Declaration of Human Rights and article 16 of the International Covenant on Civil and Political Rights everyone had the right to recognition everywhere as a person before the law. Under article 7 of the Universal Declaration and article 26 of the

International Covenant on Civil and Political Rights, all persons were equal before the law and were entitled without discrimination to the equal protection of the law. By Recommendation No. 151, adopted in 1975, the International Labour Conference recommended that Governments should take appropriate measures with a view to examining complaints that the rights of migrant workers were not being observed and with a view to securing the correction, by conciliation or other appropriate means, of any practices which were in conflict with the rights of migrant workers. It also recommended that the migrant worker should be able, by resorting to the available procedures, to lodge an appeal against the termination of his employment (para. 32).

81. It was stated that, in addition to the right of appeal, there should be other procedures as well, such as labour inspection, mediation, and conciliation, which could be utilized before, or in place of, appeal.

82. The view was expressed that appeals procedures should be as expeditious as possible so that the migrant worker could have his status and his future settled at the earliest possible time, and also in order to avoid further complications if it should turn out that the migrant worker was required to leave the host country.

83. National appeal procedures were examined and evaluated. Regarding one country it was said that a right to appeal against most adverse decisions affecting migrants was granted, normally to an independent adjudicator in the first instance, and subsequently, if leave was granted, to an Immigration Appeal Tribunal. There was, for example, a right of appeal against the refusal of leave to enter the country or to stay there after entry and in certain cases against the making of a deportation order. Under this procedure written notice must be given to the person in respect of whom the appealable decision or action was taken within fixed time-limits varying from 14 days to three months according to the circumstances. An application for leave to appeal to the higher tribunal must be made not later than 14 days after the determination of an adjudicator if the applicant was still in the host country, or not later than 42 days after if he was overseas. In the same country, a general guide to rights of appeal against immigration decisions had been published and was available, free of charge, to enquirers.

84. Considerable concern was expressed at the fact that in many cases victimized migrant workers did not avail themselves of their right of appeal because of ignorance of the existence of the relevant procedures. It was recommended that extensive campaigns should be undertaken to inform migrant workers of their rights of access to the courts and other tribunals and to encourage them to utilize those rights. Attention was drawn to the fact that in many cases victims did not avail themselves of their rights for fear of becoming involved in proceedings before foreign authorities or of being the target of hostile acts or reprisals.

85. The situation existing in South Africa was brought to the attention of the seminar. It was recalled that in South Africa, where there were workers recruited from several other African countries, racial segregation was legalized and accepted as a way of life. Principles relating to the right of appeal for those workers were completely meaningless.

B. Collective action in favour of migrant workers

(a) Trade union rights

86. The right of migrant workers freely to join trade unions was highlighted. It was stated that since a migrant participated in the economic life of a country, he should have adequate trade union representation. Various participants noted in this connexion that legislation in many countries provided equality of treatment to migrant workers. Nevertheless, in several countries the right to join a trade union was subject to certain conditions, such as a minimum period of residence in the country of employment.

87. With respect to the right of migrant workers in the agricultural sector to join trade unions, it was noted that in several countries there were no trade unions of agricultural workers. They were therefore without any protection. In the view of a large number of participants, such a situation was particularly alarming. The representative of ILO referred, in particular, to the Freedom of Association Convention, 1948 (No. 88), which applied to workers without any distinction whatsoever.

88. Attention was drawn to the fact that it was not enough for the law to recognize the principle of participation in trade union activities; that right should also be implemented in practice. It was stated that in many cases trade unions did not encourage membership by migrant workers, nor did they adequately protect their interests. In some cases, trade unions even opposed membership of migrant workers. In others, migrant workers were not allowed to become officers of trade unions. The suggestion was made that a comparative study should be undertaken on the trade union rights of migrant workers in the various receiving countries.

89. It was pointed out that trade unions had, in some cases, opposed immigration and had sought to reduce or even put an end to it by invoking the possible danger of unemployment among national workers, particularly during periods of economic recession. Attempts were made to justify that attitude by representing migrant labour as competing with nationals in the labour market. That analysis of the situation was unjustified, since migrant workers occupied the lowest paid jobs.

90. Opposite views were expressed on the question of how far migrant workers who were recruited illegally should enjoy the right to join trade unions. In the view of some participants, the granting of such rights would tend to encourage surreptitious immigration.

(b) Action on behalf of migrant workers enabling them to exercise the rights of expression, association and peaceful assembly outside the trade union framework, including, in particular: implementation of the right of migrants to form and belong to associations; action of political parties, churches and other religious institutions, youth associations, and other voluntary associations

91. It was considered that the law should enable migrant workers to form associations for legal purposes of the same nature as those of similar associations

formed by the citizens of the receiving country. It was felt that, if migrant workers had their own associations to represent them, this could play an important role in the promotion of their rights. These associations should, therefore, get the benefit of assistance from the authorities of the receiving countries.

92. It was recalled that the exercise, by migrants, of the rights of expression, association, peaceful assembly, membership of political parties, religious institutions, youth associations, etc., was already covered by certain international instruments, such as the International Covenants on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination.

93. Participants emphasized that voluntary associations could discharge useful functions by providing information and services to migrant workers. They might, for example, serve as liaison between the migrant workers and the local community.

94. It was stated that political parties and other institutions and associations should defend the interests of migrant workers in the same manner as those of nationals.

(c) Role of mass information media

95. Participants were generally agreed on the paramount importance of the role played by mass information media in shaping public opinion. The rights, obligations and problems of migrant workers were often poorly understood by a large proportion of the population of the receiving country. Migrant workers themselves needed also to be better informed of their rights. It was further noted that the implementation of the rights of migrant workers would be enhanced if they were supported by various social groupings in the receiving countries.

96. Mass information media, it was contended, should be able to bring useful information to the attention to both the people of the receiving country and the migrants themselves. The press, radio and television had a twofold role to play, namely, to provide prospective emigrants in the country of origin with information, and to utilize means of communication to the advantage of migrant workers in the country of employment. An important goal of information media in the receiving country should be to promote a better understanding of the contribution made by migrant workers to the development of the country, and thereby to help eradicate prejudices and discrimination against migrant workers.

97. A more sympathetic awareness of the problems faced each day by migrant workers could be brought about by explaining to public opinion in the receiving countries, through the press, radio and television, the reasons which had prompted such workers to leave their country, and by describing their customs and the difficulties they encountered.

98. Several participants described the situation in their respective countries to illustrate how mass information media were used for the benefit of migrant workers and their families. The approach followed in one country was of particular interest. In that country a special government service responsible for liaison between

administrative agencies and foreign communities on matters concerning the use of mass information media was maintained. The service had a large budget and adequate staff responsible, mainly, for the preparation of written information in several languages. It produced a large number of bulletins, pamphlets and booklets on topics that in the view of the Government should be brought to the attention of migrant workers. These materials were distributed to the administrative services of ethnic associations, to be passed on to their members. Other official administrative bodies, and even post offices, kept stocks of such documents. During the International Women's Year, several publications had been distributed to local women and the wives of migrant workers, informing them of their rights and obligations. In addition, weekly and monthly newspapers were published in several languages. The Government reserved space in those newspapers so as to be able to inform various communities of migrant workers, in their own language, of developments of interest to them and of their rights and obligations. For example, in periods when jobs were in short supply as a result of economic depression, a Commission informed migrant workers, through the newspapers, of the addresses of the employment agencies where they could register for work. Virtually all foreign-language newspapers received financial assistance from the Federal Government so that they could publish information useful to various ethnic groups. In the private sector of radio and television broadcasting, businessmen belonging to different ethnic groups, or even migrant workers who had become citizens, acting as intermediaries, bought radio and television time which they resold to various ethnic communities, enabling them to broadcast in their respective languages. Some communities had access to broadcast time each day, and businessmen could use that time to advertise their products to their ethnic communities. The same approach was used on television. Communities of immigrants were thus able to use mass information media to promote their own culture and inform their members of their rights and obligations.

99. Attention was drawn to the fact that in most receiving countries migrant workers enjoyed little or no access to mass information media to put across their views. That situation was considered unsatisfactory. Migrant workers themselves were best suited to present their problems and difficulties and to explain to the host population their culture and heritage. Adequate access to the mass media should, therefore, be afforded to them. In this connexion, it was suggested that sending Governments could play a useful role in host countries by securing television and broadcasting time and allocating it to their nationals.

100. It was considered that trade unions also had an important role to play in mass information activities. Some participants noted that the trade unions in their respective countries could use radio and television for the purpose of bringing information to the attention of migrant workers. Various techniques, such as films or interviews, were employed to explain the problems encountered by migrant workers. It was felt that this sort of approach should be encouraged, if necessary, by assisting the trade unions and making available to them the facilities needed to put their message across to the migrant workers.

101. It was recalled that the nature of the information and the way it was presented was an essential aspect of the question. It was necessary to pay great attention to the way in which mass information influenced every-day life as well as

international relations. Steps should be taken to ensure that information helped to bring peoples together, fostered friendship between them, and did not propagate racist ideas and war propaganda. Information should also help to strengthen respect for the traditions and culture of each people and to make available to all, including migrant workers, mankind's supreme achievements in all spheres.

102. Several participants suggested the establishment of information offices within embassies and consulates whose basic purpose would be to provide appropriate information to migrant workers. Such workers were very often hampered by language difficulties and found it impossible to explain their problems to the authorities of the receiving country. One reaction to that idea was that such offices, if established, might be used to check on migrant workers, and would therefore be dangerous. Mention was also made of the existence of certain bodies established by the authorities of the country of origin to assist and inform their own citizens.

103. Some participants felt that the Governments of the receiving countries should assist in the establishment of voluntary bodies that could provide migrant workers who settled in their countries with the information they required. It was agreed that such bodies could help to bring pressure to bear on Governments and thus help to improve the living and working conditions of migrants.

104. It was suggested that a study should be prepared of the ways in which mass information media could be used to improve the condition of migrant workers in host countries where migrants were unfairly treated. The study should also analyse how mass information media were used negatively against migrant workers.
A participant denounced in this connexion the utilization of mass information media - radio, television and press - to arouse xenophobic campaigns which distorted facts and obviously violated human rights. It was also proposed that a study should be undertaken on the formulation of effective communication programmes suitable to the particular needs and the facilities available in receiving as well as in sending countries.

C. Measures taken on the initiative of the public authorities, including intergovernmental co-operation measures, with respect, for example, to controls at the time of recruitment and upon arrival, inspection of enterprises, assistance to migrants, and repressive action

105. At its 9th meeting, the seminar decided to consider this subitem in conjunction with item C of the agenda. For the discussion, see chapter III below.

D. Summing up of the discussion

106. Mr. Henry Humphrays (United Kingdom), who had introduced the item, summed up the discussion as follows. As regards subitem 9 (Appeals procedures), he said that some receiving countries had administrative or legal machinery to provide the right of appeal on matters concerning immigration - which was particularly relevant to migrant workers - in general matters and in those concerning employment.
In some of those countries such rights applied equally to migrant workers and to

the resident population. In some countries, also, there were specific bodies established to deal with complaints from migrant workers. The view of all participants was that those facilities should be available to all migrant workers and their families in all countries. The participants also believed it to be vital that under national laws, migrant workers should have the right of appeal in general, in employment and, similarly, in immigration matters: that they should be fully acquainted with those rights and that the difference that existed in some countries between theory and practice should be diminished.

107. As regards subitem 10 (Collective action in favour of migrant workers), he said that there had been considerable discussion, under subitem (a), about the role of trade unions and about opportunities which should be available to migrant workers not only to join trade unions but to become officers in trade unions. It was seen that trade unions could play a vital role in helping migrant workers to achieve their rights and to safeguard their position, whether or not migrant workers actually joined the unions. However, it was pointed out that sometimes trade unions had other aims which were not always compatible with the aspirations of migrant workers. It had been noted that as far back as 1948 an ILO convention had guaranteed all workers the right to form and belong to trade unions and other organizations without discrimination, and that subsequently an ILO study had found that sometimes there were legal and traditional barriers to the full implementation of that aim. Participants had also been reminded that the World Population Conference, held in Bucharest in 1974, had had important things to say about migrant workers. The position of agricultural workers and those in rural industries had been discussed in depth. Participants felt that Governments should take the initiative to ensure that discrimination against such workers was progressively removed.

108. The seminar had been invited to consider certain aspects of trade union rights for migrant workers. The feeling of participants was that migrant workers should have the right to join trade unions and to serve as officers of unions. No conclusion emerged on the question of separate unions of migrant workers or separate sections of trade unions dealing with migrant workers. As this involved the rights of unions to be independent, it could be suggested that full publicity should be given to migrant workers about their trade union rights, and the matter could be left to trade unions and representatives of migrant workers to develop as they saw fit.

109. On the subject of subitems 10(b) and (c), concerning action on behalf of migrant workers enabling them to exercise the right of expression, association and peaceful assembly outside the trade union framework, and the role of mass information media, the seminar had heard about the role of Governments, public bodies and voluntary agencies in distributing information to migrant workers and the role of the mass media, particularly radio and television. The latter were often outside governmental control. In some countries, time was allotted for the benefit of ethnic groups, but very often it was not enough. There was clearly room for an

increase in the scope of broadcasting and in the use of printed matter in that very important area. It was also important that the efforts of voluntary agencies should be encouraged and supported and that Governments, in dealing with this matter, should consider each other's experiences. One could always improve upon performance. The dissemination of information was a vital matter, not only to inform foreign workers of their rights or responsibilities but also to help their integration into the host country by improving relations between them and the resident population. Conditions differed, of course, from one country to another, and the differences should be recognized. Stress should be laid on the need for international progress in this field. It had also been suggested that there should be a study of the ways in which the media in receiving countries were being used against the interests of migrant workers.

III. INTERNATIONAL MEASURES FOR THE BETTER PROMOTION AND PROTECTION OF THE RIGHTS AND FREEDOMS OF MIGRANT WORKERS

110. This item of the agenda was discussed at the 12th to 14th meetings, held from 19 to 20 November 1975. As indicated in paragraph 105 above, the seminar decided at its 9th meeting to discuss subitem 11 of the agenda in this context.

111. The item was introduced by Mr. Afzal Mahmood (Pakistan) who expressed the view that it was the most important part of the agenda of the seminar. He reviewed the work already done within the United Nations and the specialized agencies (ILO, UNESCO and WHO) and in various regional intergovernmental organizations and non-governmental organizations, including the Council of Europe, the League of Arab States, the Arab Labour Organization, the Organization of American States and the Organisation of Economic Co-operation and Development. He referred to the set of draft recommendations submitted by Mrs. Halima Warzazi to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-eighth session, in 1975 (E/CN.4/Sub.2/L.636), and drew particular attention to recommendations I.A.8, I.C.1, I.C.3, II.A.5, II.A.8, II.A.12, II.A.13 and II.A.24. He invited the seminar to look at these and the other recommendations submitted by Mrs. Warzazi, as well as the recommendations of other international bodies and conferences, such as the World Population Conference, the World Conference of the International Women's Year, the United Nations Commission for Social Development, the ILO Meeting of Experts on Migrant Workers (1975) and the International NGO Conference on Discrimination Against Migrant Workers in Europe (1975). He suggested that the seminar should go through those various recommendations with a view to suggesting concrete, practical measures for the better promotion and protection of the human rights of migrant workers. He recalled that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its twenty-ninth session, in 1976, would attempt to draw up concrete recommendations for promoting and protecting the human rights of migrant workers. He requested the seminar to bear this factor particularly in mind.

112. Mr. Mahmood further suggested that whilst discussing measures to be taken in the future, a critical eye should be cast on what was being accomplished at the present time. He suggested that the seminar could consider, for example: to what extent the rights of migrant workers stated in international instruments were enjoyed by them; to what extent trade unions, voluntary organizations and the mass media were actually assisting migrant workers; what further role the United Nations and its associated organizations could play in further promoting and protecting the human rights of migrant workers; what the United Nations could do to assist voluntary organizations to help migrant workers.

113. The ILO representative informed the seminar of the recent and future activities of his organization in the light of the work of the recent meeting of experts convened by the ILO on this subject in October 1975. He said that the Tripartite World Conference on Employment, Income Distribution and the

International Division of Labour, which was to meet in June 1976, would be called upon to examine, among other matters, the problem of international migration for employment in the context of the economic and social needs of countries of origin and employment. Problems affecting migrant workers would also be approached within the framework of various technical programmes (social security, labour safety and hygiene, workers' education, industrial relations, catering, living conditions and vocational training) and by specific sectors of economic activity (for example, nursing personnel, foreign seamen, construction workers). Special attention would be paid to promoting the application of the international instruments adopted by the International Labour Conference in 1949 and 1975 relating to migrant workers, on activities at the regional and subregional levels, on the expansion of co-operation between state employment services in countries of emigration and immigration, and on the study of problems raised by returning workers.

114. The discussion centred on the following issues: the approaches which should be followed to the problems of migrant workers in the future; the international perspectives in which the problems of migrant workers should be seen; the extent to which there exist at the present time correct perceptions of who migrant workers are, what their motivations are, and what their real desires are when they are in the host country; the extent to which the analyses made so far of the problems of migrant workers have been accurate or have emphasized the true priority issues; situations of mass violations of the human rights of migrant workers; further studies which could be useful regarding the problems of migrant workers; and concrete practical action which needs to be taken for implementing the human rights of the migrant workers.

115. Regarding the approaches which should be followed in the future, the unanimous view was that the time had come for concrete, practical action to implement the rights of migrant workers. One of the significant results of the seminar, it was suggested, was the emergence of a clear feeling that the emphasis should henceforward be on the implementation of the rights of migrant workers. A general call was made for action at the national, regional, subregional and international levels; at the governmental and non-governmental levels; by trade unions, employers' associations and voluntary organizations. Another fact to be borne in mind in the future, it was stated, was that there were different categories of immigrants: persons who migrated with a view to settling permanently in the new country; short-term migrants who had the intention to return to their country of origin; illegal or non-documented migrants. The problems of those different categories of migrant workers were different and should be recognized and studied as such.

116. The view was expressed that in addition to legal, economic and social aspects, the psychological, emotional, and cultural aspects also needed to be taken into account and studied. Measures were necessary, for example, to lessen the isolation and the loneliness of migrant workers. It was also urged that greater emphasis should be placed in the future on the problems of migration in other parts of the world than Western Europe.

117. Regarding current perceptions of migrant workers, their motivations and their real desires, the view was expressed that there was too often a tendency to think in terms of simple stereotypes - of the migrant worker, for example, who left his farm, went abroad, spent a few years and then returned to his home country. This, it was suggested, was a very narrow and simplistic picture. It was a myth. There was a tendency to lose sight of the migrant worker himself and of what he wanted. Contrary to the stereotype usually projected, the vast majority of migrant workers had gone to seek material improvement in a materialistically more developed society. There was a need to move away from an excessively legalistic perception to an identification of the social-psychological aspects, since there were socio-psychological dynamics involved. The question of the return of migrant workers was given as an example. After migrant workers had gone to their new society and had spent a few months there, they began to develop material attachments to their new society. After a few more months and after going through difficulties of non-acceptance and of discrimination, instead of wanting to run back home, migrant workers yearned to be fully integrated, to receive full acceptance and citizenship, so that they could be treated equally. If the migrant worker had a wife the pressure was greater for him to integrate in his new society. It was contended that women tended to be very practical and were reluctant to give up material benefits enjoyed in the new society which they might not have if they returned to their home countries. If there were children, the pressures for integration become even stronger because the children, in time, become estranged from their homeland and also, to some extent, from their own family - as a result of influences at school, the society, and of their playmates.

118. The view was expressed that the return of migrant workers to their home countries was not so simple a process as it is sometimes made to appear. The people who migrated were usually the most energetic and restless. From the point of view of the home countries this could have political and social implications both when they depart as well as when they return. If massive returns to sending countries were to take place not only would the benefits of partial relief of the employment situation, earnings of foreign exchange and, to some extent, a market for their experts, be lost to the sending country but also they would be confronted with an influx of a group of restless persons with high expectations who could eventually coalesce into a new political force. This had happened in some countries and had given rise to political repression against returning nationals. It was also stressed that the vast majority of migrant workers were in menial or low-skill occupations where they acquired few, if any, skills to take home. Those few migrant workers who had acquired skills were the ones least likely to return home or to be laid off. They remained in demand in the host country and enjoyed job satisfaction which encouraged them to remain.

119. According to many participants, the problems of migrant workers had to be seen and tackled in a global perspective. To this end it was necessary to reaffirm the role of the United Nations, so that it would become a strong and more effective organization, capable of responding effectively to the aspirations of all peoples for peace, co-operation and progress. The overriding objective of all current development activities should be to establish a new international economic order that would replace obsolete relationships by new relationships founded on principles of equality and equity, to eliminate differences between States and ensure the harmonious development of all peoples, and to embark upon

a new course in international relations based on unswerving respect for the rule of law and established standards of international conduct, and the right of each nation to decide for itself the path it was to follow. The achievement of security, of relaxation of international tension, and of international peace was indissolubly linked with the establishment of the new economic order, with the development of all nations and with the welfare, independence and happiness of each people.

120. Several participants stated that an end should be put to the present division of the world into "rich" and "poor" countries. All should have free access to the achievements of modern civilization and prospects for a better and more just world must be opened up.

121. The United Nations should support activities aimed at the enactment of legislation to do away with the injustices and discrimination directed against women and to guarantee them complete equality of rights at all levels of society. The United Nations Commission on the Status of Women should play a more important and active role in the solution of economic, social and political problems connected with the status of women throughout the world.

122. One participant recalled the proposal contained in document A/C.6/437 making reference to the need for the establishment of a United Nations Council on Youth Problems with a view to promoting international co-operation and to co-ordinating the work of the United Nations and the specialized agencies relating to youth problems. Special attention should be paid to the aspirations of young people, to their integration in economic and social activities and to their preparation for life and work in the spirit of the ideals of peace and co-operation between all peoples.

123. The attention of the seminar was drawn to the fact that in many parts of the world there were mass violations of human rights affecting migrant workers. Many thousands of persons had been forced to flee from Chile and to work abroad. In some cases their nationality had been withdrawn by the Chilean Government and they were thus without any home government, embassy or consulate to represent or protect them. In southern Africa large numbers of foreign workers were subjected to brutal and inhuman conditions and were deprived, under the system of apartheid, of nearly all of the basic rights of migrant workers. In Israeli-occupied territories numerous workers had gone abroad to seek employment.

124. The view was expressed that virtually the entire Palestinian work force of approximately one million men and women was made up of migrant workers, who were impelled to travel to European and North American countries or to other Arab countries in search of work. The Palestinian migrant worker was utterly without protection in the country to which he travelled. He had no embassy or consulate to defend his interests and no home government to make representations on his behalf. Because of these circumstances, he was even more exposed than other migrant workers to pressure and exploitation by his employer, who knew full well that there was no one to speak for him. Something should be done about the situation of Palestinian migrant workers in the receiving countries. Measures should be taken to provide them with the same rights as those enjoyed by other migrant workers.

125. Some participants drew attention to the plight of migrant workers without a nationality. Those workers had no home government, embassy or consulate to represent them or to whom they could turn for any kind of satisfaction. That was a problem which required special consideration in the future.

126. One participant referred to the situation of Mexican workers abroad and requested that the Commission on Human Rights, in consultation with the governments concerned, should undertake an on-the-spot inquiry, the findings of which should be considered by the Commission and the Economic and Social Council.

127. It was submitted that migrant workers lacked adequate representation. Sending and receiving countries were able to represent themselves, but migrant workers needed their own independent representation to make their problems and their views better known. One could detect, it was stated, an implicit and unconscious conspiracy between sending countries and receiving countries to pretend not to see the problems faced by migrant workers. Migrant workers should be represented in deliberations concerning themselves. However, migrant workers, on account of their lack of education and their heterogeneous national composition, found it difficult to organize themselves. The United Nations should study the question to see whether it could play a role in this area. Whenever possible, an official of the United Nations could sit on committees or other organizations dealing with migrant workers to watch over their interests. Another suggestion was that migrant workers should set up their own organizations in each country. There could be an international federation of migrant workers having consultative status with the Economic and Social Council. It was also urged that embassies or consulates of sending countries should be able to make representation on behalf of migrant workers clandestinely recruited by employment agencies in sending countries in connivance with agencies in the receiving countries.

128. The view was expressed that sending countries should assume greater responsibility for their nationals. They should establish organizations to deliberate on policies and to serve, in a planned way, the needs of their migrant workers at the pre-departure stage, during their stay in the receiving country and, where applicable, prior to and upon their return home. Such organizations should also study, and cater for, the reintegration of migrant workers upon their return to the home country. Sending countries, it was stated, had a responsibility which was equal to that of receiving countries. The responsibility of States for the well-being of their nationals was not limited to nationals who were within their natural borders; it also extended to those who were abroad. Some participants expressed the view that sending countries should not use the migration of their nationals abroad as an escape from taking measures necessary for development. The aim should be to provide jobs for citizens in their homeland.

129. It was suggested that interdepartmental committees should be set up in each receiving country to examine the problems of migrant workers on a continuing basis. They should be composed of representatives of various departments of the home government closely connected with migrant workers, such as employment,

social security, health, housing and foreign affairs, and representatives of trade unions, employment associations and voluntary organizations. As far as possible, migrant workers should also be represented. In view of the difficulties frequently encountered by migrant workers in organizing themselves, owing, for example, to their lack of education or to their heterogeneous ethnic composition, it was suggested that an appropriate official from the United Nations should sit on the committee to watch over the interests of migrant workers. It was also desirable that representatives of embassies or consulates of the principal sending countries with nationals in the host country should be represented on the committee. Where there were many nationalities present in a host country, some form of joint representation of sending countries would have to be worked out.

130. Some participants suggested that the magnitude and complexity of the world-wide migrant worker problem indicated the need for the creation within the United Nations system of an office patterned on that of the High Commissioner for Refugees. There was, it was stated, a similarity between the problems of migrant workers and those of refugees in that both concerned large segments of people whose human rights and other interests were unprotected. The new organ could bring together all the various activities concerning migrant workers and could act for the implementation of their rights. It could, for example, give technical assistance and advice to receiving and sending countries, make on-the-spot investigations of the conditions of migrant workers and, on a continuing basis, keep under close scrutiny the problems of implementation of the rights of migrant workers and other matters concerning them. Further study of those suggestions was felt by participants to be justified. One participant, however, suggested that the ILO should strengthen its activities on behalf of migrant workers.

131. The representative of the ILO stated that under its constitution the ILO had been given the mandate "to protect the interests of workers when employed in countries other than their own", and he referred to Economic and Social Council resolution 1926 (LVIII) recommending that intergovernmental organizations, specialized agencies and organs of the United Nations system, within the framework of the Administrative Committee on Co-ordination (ACC), interested in international migration establish an ad hoc group to study, taking into account the work done by the regional commissions, the appropriate measures related, inter alia, to the defence of the rights of workers and their families. As a follow-up to this resolution, the ILO had been requested to convene an interagency meeting to discuss this question.

132. The following studies were recommended by participants: a study of measures that could lead to "humanized" solutions to the problems of illegal workers; a study on ways of facilitating the task of embassies and consular offices in receiving countries when making representations regarding the documentation of workers illegally recruited by local employment agencies in connivance with an agency in the receiving country; a study of the role that could be played by the mass media in promoting and protecting the human rights of migrant workers and in promoting harmonious relations between migrants and local populations; a study on the negative use of mass information media against migrant workers; a study on the formulation of effective communication programmes suitable to the particular needs of, and facilities available in, different receiving and sending countries.

133. The conclusion of bilateral agreements as a basis for mutual economic co-operation and for the utilization of foreign workers was commended by some participants. It was stated that they would enable the movement of workers to be linked to development schemes, particularly among less developed countries, and could contribute to planned economic development.

134. The participants from socialist countries pointed out that in their countries there were no migrant workers from other countries and that their nationals did not go abroad as migrant workers. Intergovernmental agreements on economic co-operation between those countries sometimes made provisions for the sending or receiving of workers. Those workers, however, were not migrants in the sense of the definition of this term contained in ILO Convention No. 143.

135. The view was expressed that in countries with free market or mixed economies, governments had a duty to lay down strict regulations concerning the treatment of migrant workers by enterprises. These should not be left to individual employers.

136. During the course of the discussion, reference was made to the twinning of towns and communes, and it was observed that an intensification of intercommunal co-operation on a world-wide scale could facilitate the migrant worker's integration in receiving towns.

137. Several participants endorsed the draft recommendation submitted by Mrs. Halima Warzazi to the Sub-Commission on Prevention of Discrimination and Protection of Minorities that INTERPOL should be invited to assist in detecting and breaking up international trafficking in foreign labour.

138. The seminar was reminded that the provisions of the International Covenant on Civil and Political Rights and the Optional Protocol thereto and of the International Covenant on Economic, Social and Cultural Rights could, if applied in practice, bring relief to migrant workers. Unfortunately, however, many of the States receiving migrant workers had, so far, not ratified either of the Covenants. This was strongly deprecated and the governments in question were called upon to ratify or accede to the two Covenants and the Optional Protocol as early as possible. A similar call was made to all the other States Members of the United Nations which had not yet ratified those instruments.

139. The view was strongly expressed that the provisions on human rights contained in the United Nations Charter and in the Universal Declaration of Human Rights represented binding rules of international customary law. All States had a duty to respect them. They extended their protection to all persons, including migrant workers.

Summing up of the discussion

140. Mr. Afzal Mahmood (Pakistan), who had introduced the discussion of the item, summed up as follows:

(a) A general call for effective action to implement the human rights of migrant workers had emerged from the discussions.

(b) Measures were called for on the national, regional, subregional and international levels. Bilateral agreements were particularly commended.

(c) Various practical suggestions had been put forward. These included: the creation in sending countries of organizations to deliberate on policies and to serve the needs of migrant workers at the pre-departure stage, during their stay in receiving countries and upon their return home; the creation in each receiving country of standing committees composed of representatives of concerned government departments, employers, trade unions and voluntary organizations and representatives of migrant workers, which could meet regularly to discuss the problems of migrant workers; and the creation of a United Nations High Commissioner for Migrant Workers.

(d) Various studies had been suggested, on, for example: the role of mass information media; the negative use of mass information media; humanized solutions to the problems of illegal workers; the formulation of effective communication programmes.

(e) It had been suggested that sending countries should assume greater responsibility towards their nationals who had migrated abroad.

(f) The attention of human rights bodies had been called to mass violations of the human rights of migrant workers affecting the inhabitants of Israeli-occupied territories, Chileans forced to flee abroad, and foreign workers in southern Africa.

(g) The long-term solution to the problems of migrant workers was identified as resting in the elimination of the conditions necessitating migration. All possible measures should be utilized to speed up the development of the developing countries. To that end there had been a call for speedy and effective implementation of the measures prescribed under the Declaration and Programme of the New International Economic Order, the Charter on the Economic Rights and Duties of States, and resolution 3362 (S-VII), on development and international economic co-operation, adopted by the General Assembly at its seventh special session.

(h) An appeal had been made to participants to support measures undertaken by the United Nations on behalf of the maintenance of peace, détente and disarmament.

(i) The relevant international instruments should be ratified, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The provisions of those instruments could, if applied, materially improve the position of migrant workers.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

141. At its 15th meeting, on 24 November 1975, the seminar unanimously adopted the following conclusions.

(1) The seminar considered that the long-term solution to the problems of migrant workers rests in eliminating the conditions that necessitate migration. All possible measures should be utilized to speed up the development of the developing countries. To this end there should be speedy and effective implementation of the measures called for under the Declaration and Programme of the New International Economic Order, the Charter on the Economic Rights and Duties of States, and resolution 3362 (S-VII), on development and international economic co-operation, adopted by the General Assembly at its seventh special session, in 1975.

(2) The seminar endorsed the trend of contemporary international relations, which places emphasis upon the maintenance of international peace and security, détente and disarmament, and human rights. Peace is a fundamental pre-condition for the existence and safeguard of human rights. Détente promotes an environment conducive to respect for human rights. Disarmament, by lessening the financial burdens of the arms race, provides more resources for development, which can yield economic benefits to all countries and their inhabitants, including migrant workers. The seminar noted with satisfaction the relevant parts of the Final Act of the Conference on Security and Co-operation in Europe (Helsinki, 1975).

(3) The seminar expressed its support for paragraph 10 of section III of General Assembly resolution 3362 (S-VII), in which the Assembly stated: "Since the outflow of qualified personnel from developing to developed countries seriously hampers the development of the former, there is an urgent need to formulate national and international policies to avoid the 'brain drain' and to obviate its adverse effects".

(4) The seminar considered that all approaches and policies at the national, regional, subregional and international levels should be motivated and guided in their implementation by considerations of the human rights of the migrant workers, which should, as a rule, override all other considerations. Every effort should be made to ensure that universal minimum standards of human rights are guaranteed to all migrant workers.

(5) The seminar endorsed the view of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, expressed in its resolution 5 (XXVII), that the Governments of the countries of emigration and the host countries should adopt more effective measures to combat the exploitation of labour through illicit and clandestine trafficking and to supervise the implementation of the provisions of bilateral and multilateral agreements and the relevant international instruments.

(6) The seminar endorsed the recommendations of the United Nations General Assembly in its resolution 3224 (XXIX) that all States should (a) extend to all migrant workers who enter their countries legally treatment equal to that provided for their own nationals with regard to human rights and to the provisions of their labour legislation applicable to such migrant workers; (b) promote and facilitate by all means in their power the adoption of bilateral agreements which would help to reduce the illicit traffic in alien workers; (c) pending the conclusion of such agreements, adopt the appropriate measures to ensure that the human rights of migrant workers who enter their territory surreptiously are fully respected.

(7) The seminar endorsed the recommendations on international migration contained in the World Population Plan of Action adopted by the World Population Conference held at Bucharest in 1974. The seminar particularly endorsed the statement in paragraph 56 of the Plan that Governments should bear in mind humanitarian considerations in the treatment of aliens who remain in a country illegally.

(8) Recruitment of migrant workers should, as far as possible, be done through official channels. Private agencies should operate under governmental authorization and supervision.

(9) The fullest possible information should be given to migrant workers prior to their departure and upon their arrival in receiving countries. Orientation courses should be organized for them by sending and receiving countries.

(10) The basic human rights of all migrant workers should be respected, notwithstanding their migratory status. It is inhuman and degrading to keep a migrant worker in an illegal status for a prolonged period of years.

(11) All States should endeavour to grant immigrants who are lawfully within their territory treatment no less favourable than that accorded to their own nationals. Migrant workers should be treated in a decent manner as regards their standard of living and well-being, the application of social security, provision of housing, and opportunities for educational and cultural development.

(12) Every effort should be made to accept migrant workers together with their families, and everything should be done to unite migrant workers with their families.

(13) Migrant workers should be protected against arbitrary expulsion. Decisions to expel should be taken in accordance with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

(14) Migrants should be granted the right of judicial appeal on all matters affecting their status, employment, and residence within receiving countries.

(15) The return of migrant workers to their country of origin should always be voluntary. Organized campaigns to expel migrants should be declared illegal.

(16) Trade unions and voluntary organizations have a vital role to play in helping migrant workers to achieve their rights. Migrant workers should have the right to form trade unions, to serve as officers of unions, and to establish associations.

(17) Mass information media should play a more positive role in encouraging wider acceptance of migrant workers by local populations and in promoting harmonious relations between migrant and host populations. Efforts to inform public opinion in host countries should be stepped up, so as to induce an awareness of the problems faced by migrant workers and the need to adopt suitable and effective measures to overcome them.

(18) Sending countries as well as receiving countries have responsibilities towards migrant workers. Sending and receiving countries should undertake measures designed to assist these workers at the pre-departure stage, during their stay abroad, and upon their return home.

(19) International, regional, governmental and non-governmental organizations should continue their studies and activities relating to the human rights of migrant workers, paying particular attention to the need to implement these rights.

(20) The International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination are applicable to, and may be invoked by, migrant workers. Everything should be done to widen the number of ratifications of these instruments so that their provisions can be enjoyed by all persons, including migrant workers. The same observation is made in relation to relevant ILO instruments. States which have ratified these instruments should comply strictly with their provisions.

B. Recommendations

142. The seminar considers that emphasis should be placed in the future upon action to implement the human rights of migrant workers. To this end, it unanimously adopted the following recommendations:

(1) Standing organizations should be created in each sending country to serve the needs of migrant workers at the pre-departure stage, during their stay abroad, and upon their return home.

(2) Standing committees should be established in each country receiving a significant number of migrant workers, composed of representatives of concerned government departments, employers, trade unions, voluntary organizations, migrant workers, and embassies or consulates of sending countries, which can meet regularly to cater for the needs and problems of migrant workers.

(3) Receiving Governments should bear in mind humanitarian considerations in the treatment of illegal migrant workers. The human rights of these workers should be fully respected. Receiving Governments should do all in their power to ameliorate the position of migrants and to protect them from inhuman or degrading treatment.

(4) All Governments should ensure that individual complaints relating to discrimination in or concerning employment can be dealt with by the courts or other appropriate tribunals. A general guide to the rights of appeal open to migrants should be made available to them free of charge. In addition to providing guidance and information on the right of appeal, it should, as far as possible, outline the steps to be taken by migrant workers and the procedures followed during the hearing of the appeal.

(5) The United Nations should prepare a model bilateral agreement on migrant workers for use by States. This model agreement should contain as a minimum the essential ingredients in ILO Convention No. 143 and ILO Recommendation No. 151. It should be drafted by the Commission on Human Rights and recommended to States by a resolution of the United Nations General Assembly. Governments should, whenever possible, endeavour to conclude bilateral agreements containing the elements indicated above and, when the model bilateral agreement has been completed, they should endeavour to make full use of it.

(6) Studies should be undertaken when possible on the following topics:

(i) Humanized solutions to the problems of illegal migrant workers;

(ii) Discrimination against migrant workers through the imposition of geographical and occupational restrictions;

(iii) Trade union rights of migrant workers in the various receiving countries;

(iv) The role of mass information media in promoting and protecting the human rights of migrant workers and in fostering harmonious relations between migrant and local populations;

(v) The negative use of mass information media against migrant workers;

(vi) The formulation of effective communications programmes suitable to the needs and facilities of different sending and receiving countries.

V. ADOPTION OF THE REPORT AND CLOSING OF THE SEMINAR

143. The present report was adopted unanimously at the final meeting of the seminar, on 24 November 1975.

144. At the same meeting, His Excellency Mr. Mohamed Ennaceur, Minister for Social Affairs of the Government of Tunisia, gave the closing address on behalf of the Government of Tunisia.

ANNEX

ATTENDANCE

A. Participants and alternates nominated by Governments

Argentina

Hector Ciapuscio, Asesor de Migraciones del Ministerio del Interior

Belgium

Edmond De Wilde, Conseiller de l'Ambassade de Belgique en Tunisie

Brazil

Pericles de F.M. Carvalho, Conseiller au Ministère du Travail

Canada

Nicholas Costy, Foreign Service Officer, Department of Manpower and Immigration

Czechoslovakia

Vladimir Adamus, Conseiller juridique, Département des relations internationales, Ministère fédéral du travail et des affaires sociales

Denmark

Finn Nielsen, Permanent Under-Secretary, Ministry of Social Affairs

J. Soender,* Assistant Head of Division, Ministry of Labour

France

Jean-Daniel Leroy, Chef du Bureau des Accords internationaux, Ministère du travail

Gérard Simon,* Secrétaire de l'Ambassade de France en Tunisie

Germany, Federal Republic of

Kurt Händler, Chief of Division for Social Services, Section of Migrant Workers, Ministry of Labour and Social Affairs

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* Alternate.

Guinea-Bissau

Leonel Sabastião Vieira, Directeur général du travail, Commissariat de l'Administration interne, fonction publique et travail

Iran

Iradj Seyed-Zare, Deputy General Director of Employment, Ministry of Labour and Social Affairs

Kuwait

Salman N. Al-Nisf, Ministry of Social Affairs and Labour

Lesotho

Z.M. Sello, Principal Assistant Secretary, Ministry of Commerce and Industry

Libyan Arab Republic

Mustapha Abou-Eleid Abou-Elkheir, Deputy Chief, Employment Section, Ministry of Labour

Derbi Aboul Hafith, Attaché, Tunis

Mexico

Arturo Muñoz Ledo, Advisor for Labour Affairs, Secretariat of Labour and Social Security

Juan Barona Lobato,* Consultor Jurídico Adjunto, Secretaría de Relaciones Exteriores

Efrain Zuñiga,* Secretario de Acción Sindical de la Confederación Nacional Campesina

Maria de la Paz de Brun,* Diputada Federal

Pakistan

Afzal Mahmood, Deputy Permanent Representative of Pakistan to the United Nations Office at Geneva

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* Alternate.

Philippines

Gloria Ramos, Chief, Immigrant Department, Overseas Employment Development Board, Labor Department

Portugal

Henrique Maria de Sousa Pietra Torres, Expert aux affaires légales de l'Institut de l'Emigration

Romania

Ioan Voicu, Premier Secrétaire, Ministère des affaires étrangères; membre de l'Association roumaine de droit international et de relations internationales

Somalia

Yassin Haji Hussein, Legal Adviser, Legislative Department, Ministry of Justice and Religious Affairs

Tunisia

Abdelkrim Ghana, Directeur des Affaires consulaires au Ministère des affaires étrangères

Abdelwahab Bouhdiba, Directeur du Centre d'études et de recherches économiques et sociales

Jaouida Tnani, Sous-Directeur au Ministère des affaires étrangères

Hamed Ben Salem, Chef de la Division de la Migration et des Relations sociales au Ministère des affaires étrangères

Hedi Dzibi, Administrateur Conseiller, Chef de Service au Premier Ministère

Abderrazak Azaiez, Secrétaire des Affaires étrangères

Mouldi Hammami, représentant du Parti Socialiste Destourien

Abdeljaoued Mzoughi, Chargé de mission, Parti Socialiste Destourien

Hamza Cherif, Directeur de l'Emploi au Ministère des affaires sociales

Fathi Ayari, Chef de la Division des études à l'Office de l'Emploi (OTTEEFP)

Nourredine Ktari, Directeur général de l'Office des travailleurs tunisiens à l'étranger, de l'emploi et de la formation professionnelle

Tunisia (continued)

Abdelaziz Bouzaidi, Chef de la Division des travailleurs tunisiens à l'étranger, Office de l'emploi

Tijani Ben Sassi, Chef du Service de la Réinsertion à l'Office de l'emploi (OTTEEFP)

Abdeljelil M'Rabet, Conseiller social auprès du Consulat de Tunisie à Paris

Béchir Akremi, représentant des Travailleurs tunisiens à l'étranger

Habib Touhami, représentant des Travailleurs tunisiens à l'étranger, Chargé de mission à l'Ambassade de Tunisie à Paris

Hassen Hamoudia, représentant de l'Union générale des travailleurs tunisiens

Mustapha Gharbi, représentant de l'Union générale des travailleurs tunisiens

Béchir Toumi, représentant de l'UTICA

Tahar Mejeri, représentant de l'UTICA

Saïda Ghana, représentante de l'Union nationale des femmes de Tunisie

Emna Lazoghli, représentante de l'Union nationale des femmes de Tunisie

Aïcha Zouari, représentante de l'Union nationale des femmes de Tunisie

Union of Soviet Socialist Republics

Ivan Mitiaev, Chef de Section, Département international du Conseil central de syndicats soviétiques

Alexei Petroukhine,* Conseiller au Ministère des affaires étrangères

United Kingdom of Great Britain and Northern Ireland

Henry Humphrays, Head of Overseas Labour Section, Department of Employment

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* Alternate.

United States of America

Dolores Battle, Chief, Division of Planning and Policy Analysis, Manpower Administration, Department of Labor

Edward Wayne Merry,* Acting Political/Labor Officer, United States Embassy, Tunis

Venezuela

Rafael Hernandez, Third Secretary of the Embassy of Venezuela in the United Kingdom

B. Government observers

Yugoslavia

Albert Bubić, Conseiller de l'Ambassade de Yougoslavie en Tunisie

C. Specialized agencies

International Labour Organisation

Jean de Givry, Chef, Département des conditions et du milieu de travail

Jean-Marc Clerc, Expert du Bureau international du travail

D. Observer from the Palestine Liberation Organization

Rashid Ismail Khalidi

E. Non-governmental organizations

Category I

International Alliance of Women: Aïssa Selma

International Confederation of Free Trade Unions: Mustapha Gharbi

International Council on Social Welfare: Lucien Mehl

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* Alternate.

E. Non-governmental organizations (continued)

Category I (continued)

International Planned Parenthood Federation: Najwa Mrouch

United Towns Organization: Ben Youssef Habiba

World Federation of Trade Unions: Robert Mazza

Category II

Arab Lawyers Union: Zouhir Fathi, A. Youssoufi

Christian Democratic World Union: Enrico Lapenna

International Commission of Jurists: Bahri Guiga

International Federation of Women in Legal Careers: Bahri Fathia

International Union of Family Organizations: Habib Guerfel

Society for Comparative Legislation: Achille Mestre

World Muslim Congress: Mustapha Kemel Terzi

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International League for Child and Adult Education: Victor Marrache

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